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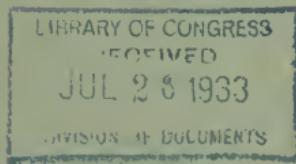
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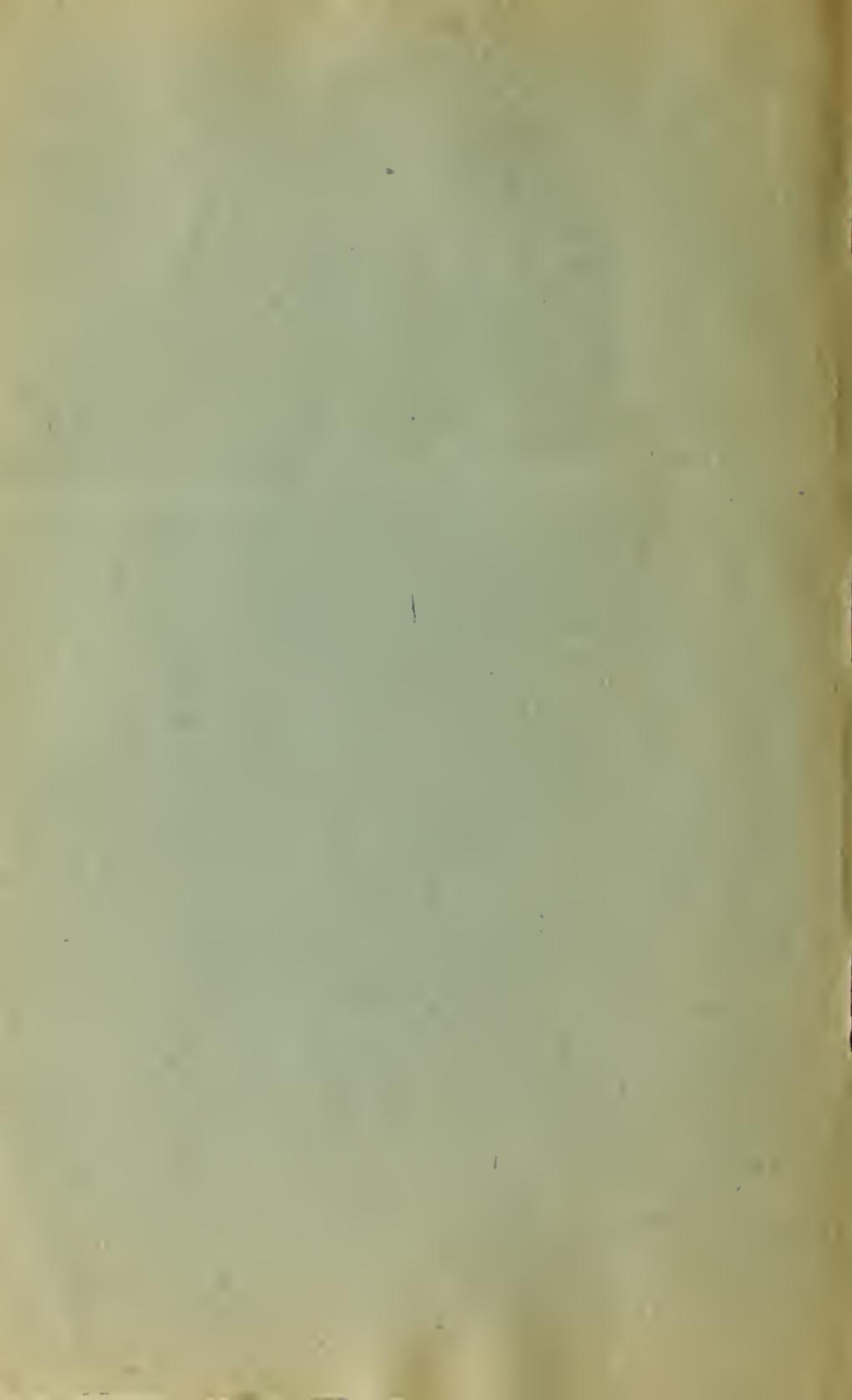
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AUTOMATIC SHOTGUN.

COMMITTEE ON THE TERRITORIES,
HOUSE OF REPRESENTATIVES,
Thursday, March 29, 1906.

The committee met at 10.30 o'clock a. m., Hon. Edward L. Hamilton (chairman) in the chair.

The CHAIRMAN. The meeting of the committee was called this morning for a hearing on House bill 11949, known as the automatic-gun bill. Are any gentlemen here ready to address the committee in favor of the bill?

STATEMENT OF MR. G. O. SHIELDS, PRESIDENT OF THE LEAGUE OF AMERICAN SPORTSMEN AND SPECIAL AGENT OF THE NEW YORK ZOOLOGICAL SOCIETY.

Mr. SHIELDS. Mr. Chairman and gentlemen, I come here to plead the cause of the birds and the wild animals. I am not here to speak for any business or personal interest in this, but we are here to ask you to enact a law for the protection of the birds and wild animals.

Mr. LLOYD. Before you proceed, give your name, residence, and occupation, and why you are here.

Mr. SHIELDS. I am president of the League of American Sportsmen, and I live in New York City.

Mr. LLOYD. You are here in the interests of that league?

Mr. SHIELDS. In the interest of the League of American Sportsmen and of a number of other bodies, whose names will appear as we progress, in documentary evidence. I want to make a personal explanation in this connection. I want to tell you gentlemen that I have been devoting nearly all my life to the work of game preservation. I am on record in 1878 as having petitioned the Ohio legislature to enact a law to protect the wild pigeon, and I am on record as far back as 1872 as trying to get Congress to enact a law to protect the buffalo. I have been working in the interest of these various species of wild animals and birds from 1865, from the time I came out of the Army in the civil war, up to to-day. Of course, in the meantime I have had to make my living as I went along, but I have been in this work in the interests of wild animals and birds for nothing; have never got a cent of salary out of it; have paid my own expenses all the time, and have put in the work of the League of American Sportsmen \$15,000 of my own money. That is my record in this matter, briefly.

I am accused by certain gun people—I will not say whom—of doing this work against the automatic shotgun from malicious motives. It has been said; and I have letters on file that have been written to certain people, trying to oppose this automatic-gun in various places, to the effect that I am doing this because

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ammunition makers withdrew their advertising from Recreation Magazine, which I published up to a year ago. If any of you are interested in knowing the facts about that, I have a copy of the magazine here containing the advertisements of the Union Metallic Cartridge Company, the Winchester Arms Company, and the Remington Arms Company, the people who are opposing us to-day in our effort to secure laws to prohibit the use of this automatic gun. They are all directly or indirectly interested in the measure which is now before you.

This magazine contains half-page advertisements of those three corporations and of a number of others in the gun and ammunition business. That issue also contains a severe criticism, a severe arraignment, of the so-called "pump gun," the repeating shotgun, which fires six shots in ten seconds, and perhaps in less than that.

I inaugurated in that issue a very strenuous crusade against the weapon, and I have been fighting it from that day to this. I have been making rapid progress, as will appear here from documents, in creating public sentiment against the use of these murderous weapons not only the automatic shotgun, but the repeating shotgun as well. I have all this time been conducting a crusade against the reckless slaughter of game with any weapon, whatever it may be, and have been urging the enactment of laws to prohibit the sale of game; to prohibit the shipment of game from one State to another; to limit the number of birds which a man may kill in a day; and I think you all know that great progress has been made on all those lines. All the States have enacted laws looking to the preservation of the game, and some of them more stringent and drastic laws than others. The sentiment of the people of the United States, and of Canada as well, is to-day rapidly crystallizing in the direction of giving to the wild animals and birds of this country every possible show for their existence and of limiting the time of killing them and the number of those that may be killed. These things must be done, or in a few years there will be no game left in this country for anybody to hunt.

We can easily see that the time is not far distant when the only living wild animals and birds will be those on preserves, either public or private, and such game as may overflow on to the surrounding territory. These are the conditions as you will find them, those of you who live ten or twenty years from now. Every State in this Union is spending money on its game. The gun and ammunition people—I say this without any unfriendly feeling—are placing on the market all the time guns some of which are very cheap, other very expensive and beautiful, which naturally create in the mind of the man who has one of them an anxiety to go out and kill things. Ammunition is being made and sold at a rate that is simply alarming.

In this connection I want to read you an extract from a letter from William T. Hornaday, of the New York Zoological Society, one of the most conscientious men in the world; a man who never goes at anything carelessly; a man famous as a student of game protection and of nature. He wrote this letter to Representative Lacey a few days ago; it is dated March 24. Mr. Lacey handed it to me this morning. It relates to the measure that is under consideration by Congress to enact a law to protect migratory wild fowl. An opinion I was requested of the Attorney-General as to whether Congress ha-

This letter reads as follows:

NEW YORK ZOOLOGICAL PARK,
New York, March 24, 1906.

HON. JOHN F. LACEY,

House of Representatives, Washington, D. C.

MY DEAR MR. LACEY: I am delighted to know that the two game preservation measures in which we are interested are in such favorable condition, and I beg you to accept through me the thanks of the zoological society for your appearance before the Committee on Agriculture in recommendation of the fence appropriation for the buffalo herd. The item seems in a fair way now to go through. If it does it will mean the consummation this year of a proposition in which a great many Americans are interested.

In offering a buffalo herd to the National Government as a gift the zoological society seeks to demonstrate the interest of private individuals in the fate of our most conspicuous American quadruped. We feel that it is the duty of individuals to do something toward the establishment of the series of buffalo herds that should be established very soon.

It is very gratifying to know that the game-refuge bill is in a fair way to become a law.

We earnestly hope that the opinion of the Attorney-General in regard to the constitutionality of a migratory wild-fowl act against spring shooting will be as all wish it to be. In view of the enormous annual outlay for firearms to be used against game birds it is impossible to have too much legislation in behalf of the birds. I have recently been assured by a gun inventor and manufacturer, who has every opportunity for obtaining information, that every year there are sold in this country about 500,000 shotguns, of which about 350,000 cost \$5 or less. He also stated that in his opinion there are now in use in this country about 10,000,000 shotguns, in which about 1,000,000,000 cartridges are used every year. Of these 700,000,000 are manufactured in the factories and the number is therefore well known. The other 300,000,000 are shells that are reloaded.

In view of these figures, is it then possible for laws for the protection of bird life to be too numerous or too stringent? The outlook for twenty years hence really is appalling.

Yours, very truly,

W. T. HORNADAY, *Director.*

Mr. Hornaday is the author of the best natural history that has ever been written of American wild animals and birds.

The New York Zoological Society, at its annual meeting last January, passed this resolution:

Resolved, That the New York Zoological Society condemns the use of the automatic shotgun as unsportsmanlike and highly destructive to bird life, and that the society urges on the legislature of this State the passage of a law prohibiting its use.

The Camp Fire Club, of New York City, at its last meeting preceding January 17, 1906, the date of this letter, adopted the following resolution:

Resolved, That this association emphatically condemns and protests against the introduction and use of the so-called automatic shotgun in the hunting of birds or other game, and we respectfully request the New York legislature to enact a law prohibiting the use of such weapon for such purpose.

The New York Association for the Protection of Fish and Game is one of the oldest game protective associations in the United States and numbers among its members such men as Grover Cleveland, Hon. Perry Belmont, Hon. Warner Miller, Hon. Robert B. Roosevelt, William P. Clyde, J. Coleman Drayton, Charles R. Flint, Gen. J. Fred Pierson, Gen. Warren M. Healy, and F. Augustus Schermer-

horn. At its meeting October 13, 1905, this resolution was unanimously adopted:

Resolved. That this association emphatically condemns and protests against the introduction and use of the so-called automatic shotgun in the hunting of birds or other game, and we respectfully request the New York legislature to enact a law prohibiting the use of such weapon for such purpose.

I have also a letter from the secretary of the Boone and Crockett Club, of New York. I think all of you know of that club, and perhaps some of you are members of it. Its membership is limited to 100 and is full, and it has a large waiting list. The Boone and Crockett Club, at its annual meeting held in New York City, January 13, 1906, passed the following resolution:

Resolved. That the Boone and Crockett Club hereby condemns the use of the automatic shotgun in the hunting of birds and other game as contrary to the ethics of good sportsmanship, and requests its officers and executive committee to endeavor to have its use prohibited by law in the State of New York and elsewhere.

I have here also a letter from Mr. J. Bissell Speer, secretary and treasurer of the Lewis and Clark Club, of Pittsburgh, Pa., a society whose object is the protection of fish and game, whose membership list is full, which has among its membership many men of national and even international reputation. He writes me under date of January 19, 1906, as follows:

It affords me pleasure to state that at its last meeting the Lewis and Clark Club unanimously adopted the following resolution condemning the use of the automatic gun:

Resolved. That this association emphatically condemns and protests against the introduction and use of the so-called automatic shotgun in the hunting of birds or other game, and we respectfully request our legislature to enact a law prohibiting the use of such weapon for such purposes."

Of the 45 men present, not one raised a dissenting voice. The Lewis and Clark Club is a unit in opposing the use of this gun, so far as I am able to learn.

The National Association of Audubon Societies includes 35 State associations, with an aggregate membership of some 50,000 men and women, all of whom are bird lovers and bird students. This association passed a resolution in substantially the same language as those which I have read. I will not take up your time to read that.

Here is a communication from the Women's Pennsylvania Society for the Prevention of Cruelty to Animals, dated Philadelphia, February 10, 1906, which reads:

To the officers of the New York Zoological Society.

GENTLEMEN: At a stated meeting of the board of managers of the Women's Pennsylvania Society for the Prevention of Cruelty to Animals, held on the 9th ultimo, a motion was made and carried:

"That this society send \$25 to the New York Zoological Society, to be used in the war which it is now waging against the automatic shotgun."

Furthermore, the following resolution was unanimously passed:

Resolved. That this association emphatically condemns and protests against the introduction and use of the so-called automatic shotgun in the hunting of birds or other game, and respectfully requests the Pennsylvania legislature to enact a law prohibiting the use of such weapon for such purpose."

I have here also a letter signed by William Dutcher, president of the National Association of Audubon Societies, which, as I say, has done an immense amount of work in the direction of obtaining legislation

for the purpose of protecting animals and birds, addressed to Mr. William T. Hornaday, in which he says:

MY DEAR MR. HORNADAY: It is with much surprise that I learn through your communication of even date that certain persons are claiming that the National Association of Audubon Societies for the Protection of Wild Animals and Birds is in favor of the use of automatic or pump guns and consequently is not in favor the passage of laws to prevent the use or sale of such firearms.

The statement was made publicly that the secretary of this association had declared himself opposed to any expression or legislation against the automatic gun. [Reading:]

I beg officially to state that the National Association of Audubon Societies is absolutely opposed to either the manufacture, sale, or use of such firearms, and therefore hopes that the meritorious bill introduced by the New York Zoological Society will become a law.

This bill prohibiting the use of the automatic gun was introduced into this Congress and into the legislatures of a dozen States at the instance of the New York Zoological Society and the Audubon societies. Mr. Dutcher continues:

I beg further to add that any statement contrary to the above in effect is unauthorized.

This society is working for the preservation of the wild birds and game of North America, and it sincerely should not stultify itself by advocating the use of one of the most potent means of destruction that has ever been devised.

You are at liberty to use this communication either publicly or privately.

I am, very sincerely, yours,

WILLIAM DUTCHER, *President.*

I have before me the report of the Ontario game commission for the year 1905, in which, in regard to automatic guns, the commission made this recommendation:

Both last year and the year before the board recommended that the use of these guns be forbidden, and legislation was introduced last year for that purpose. A most vigorous lobby was, however, conducted in the interest of the manufacturers against the bill, which was ultimately killed.

Mr. POWERS. Has any State as yet passed a bill prohibiting the use of this gun?

Mr. SHIELDS. No, sir; and I will explain briefly that the bill was introduced last year in about four or five States and got on the calendar in one State only. In the others it was killed in committee by the manufacturers of the gun and others in interest.

Mr. HIGGINS. Has this bill ever been introduced into the Territorial legislatures of New Mexico and Arizona, or has any similar bill been introduced?

Mr. SHIELDS. I think it was in one of them, but I am not sure of that.

Mr. HIGGINS. Has it ever been considered by the Oklahoma Territorial legislature?

Mr. SHIELDS. I do not know about that. If it has somebody here will probably know of it. Last year it was considered in Pennsylvania, New Jersey, Arkansas, and Kentucky. Those are the only States I know of.

Mr. HIGGINS. But it was not enacted into law in any of those States?

Mr. SHIELDS. No, sir; it was killed by the manufacturers of the gun in committee. In fact, they say so; and there is no doubt about it.

The CHAIRMAN. How did they do that?

Mr. SHIELDS. By going there and telling the members of these committees that the use of this gun should not be prohibited. I was unable to attend any of these meetings for good and sufficient reasons.

The CHAIRMAN. They had public hearings before these State committees, had they?

Mr. SHIELDS. Yes, sir; but the burden of organizing delegations to go to the meetings would have fallen on me. I have said in the outset that I have been doing everything I could.

Mr. MOON. Your purpose is to protect the game?

Mr. SHIELDS. Yes, sir.

Mr. MOON. Do you not think it is better to make a short season, and designate in each season the kind of game that should be killed, and how much each man may kill?

Mr. SHIELDS. These things are being done and have been done for years past, and I have been largely instrumental in securing such laws. These things have all been done. They are merely steps in the right direction.

Mr. MOON. What difference does it make to the bird what kind of gun he is killed with, if there are only so many of them to be killed?

Mr. SHIELDS. I will come to that directly.

The CHAIRMAN. Are you familiar with the decision of Judge Ross, of the United States circuit court of northern California?

Mr. SHIELDS. Yes, sir.

The CHAIRMAN. Before you finish will you make some comment on that decision?

Mr. SHIELDS. Yes, sir; I will; but I should now like to read this recommendation by the board of game commissioners of Ontario, continuing from where I left off:

A most vigorous lobby was, however, conducted in the interest of the manufacturers against the bill, which was ultimately killed.

The board recommends most emphatically that the use of these weapons be prohibited. Special attention has been given to the investigation of statements made by the opponents of the measure last session, to the effect that sportsmen generally approve of the gun, are opposed to its prohibition, and are of opinion that it is not an unduly destructive or unsportsmanlike weapon. Almost every witness who has appeared before the board has been questioned and many have been spoken to in private, with the result that not a single voice has been raised in support of it.

It is objectionable as being unduly destructive, because with little or no practice it can be used as rapidly as a repeating gun in the hands of a highly trained expert, and it is especially destructive where a bevy of partridge or quail do not all take wing at the same instant.

The most conclusive objection, however, against this gun is that by its use large numbers of birds are wounded which would otherwise escape untouched. The difficulty of estimating the range of birds aimed at is well known, and where the sportsman can shoot four or five times by merely pressing the trigger, the temptation to continue shooting is irresistible, the result being that one, two, or even three shots are discharged at a distance too great for killing, and numbers of birds are hit which are able to escape for the time, only to die within a day or two.

That is from the official report of the Ontario game commission, and I can show you a report of the Pennsylvania State game commission in almost the same words. They recommend the prohibition of the use of this automatic shotgun and for the same reasons stated there.

MR. CAPRON. Has there been any law enacted in the Province of Ontario prohibiting the use of that gun?

MR. SHIELDS. The bill was defeated there last winter in their committee, and it is up now again with, they say, a fair chance of passage, in spite of the opposition; but the Provinces of Manitoba and Alberta have enacted laws against this gun, and they are on the statute books there to-day, so that the gun can not be used there legally.

THE CHAIRMAN. Assuming that this is a highly destructive gun, the Chair would suggest that you discuss what may be the constitutional, legal questions relating to its use.

MR. SHIELDS. Yes, sir; I will come to that shortly.

MR. MCKINNEY. And I wish Mr. Shields would take up the discussion in some way of the question why one particular arm should be prohibited in its use, rather than that we should have a general prohibition of the use of any arm.

MR. SHIELDS. I will say in answer to that question that, personally, I would be glad to see a law enacted to prohibit the use of any gun on God's earth in hunting any wild animal or bird for at least five years to come.

MR. HIGGINS. In other words, you would prohibit absolutely the use of firearms for the hunting of any kind of game?

MR. SHIELDS. Yes, sir; for at least five years.

MR. HIGGINS. And make that general throughout the country?

MR. SHIELDS. Yes, sir; but such laws are impossible to-day. There are 10,000,000 shotguns in use in this country, and it would be practically impossible to secure the enactment of laws in any State prohibiting the use of firearms for any such length of time. A number of States have passed laws prohibiting the shooting of certain species of game for three years at a time, and with very beneficial results. When I say I would prohibit all shooting for five years I am speaking for the Audubon people and for the nonsporting and bird-loving people of this country. There are hundreds of thousands of men and women who do not shoot and who do not approve of the shooting of birds or animals. Personally I like to go out and kill a bird occasionally; but I would deny myself that right for five years or for the rest of my natural life if it would result in restoring the birds of the country in such numbers as they were here twenty years ago.

There are several decisions of the United States Supreme Court, and I can furnish you copies of them any day that you may want them, from the Department of Agriculture, in which the United States Supreme Court has held that the game in each State belongs to the people of the State in their sovereign capacity; that the taking or killing of that game is a privilege which the State may extend to the people; that that privilege may be limited and abridged in any way that the State sees fit to abridge it.

MR. POWERS. That is as to the privilege of killing?

MR. SHIELDS. Yes, sir; and of selling.

MR. POWERS. We have that in my State.

MR. CAPRON. That is true always, acknowledging that the authority of the State covers this entire subject. I should like to ask you if you do not think that the Territorial legislatures of the several Territories have absolute jurisdiction over this subject so far as the Territories are concerned, barring Alaska?

Mr. SHIELDS. I am glad you brought that question up. We are here asking you to prohibit the use of this gun in the Territories. You are making States so fast that you will have probably only one Territory left at the end of this session.

The CHAIRMAN. Not so very fast.

Mr. SHIELDS. The prospect is that only one will be left at the close of this session. Alaska is one of the greatest bird-breeding grounds for migratory wild fowl on this continent. A great deal of our supply must come from Alaska. There are millions of other birds that breed in Alaska that do not come south, and especially I am speaking of the eider duck, which does not come south of Alaska, and which is very abundant there. It is used by the people for food, and its use as food is legitimate under certain circumstances. The Territory of Alaska is destined to be settled up in the next few years, and there will be an immense onslaught on the wild game of that Territory. If for no other reason, we should like to have you pass this act to protect the wild life of Alaska.

Mr. CAPRON. This law will not reach Alaska at all, if it is passed.

Mr. SHIELDS. Then I wish to ask for an amendment to make it apply to Alaska. We want Alaska included in it. It is the most important part of this country for the preservation of bird life.

The CHAIRMAN. Assuming that everybody is quite in sympathy with you in the preservation of birds and game, the question arises now whether we might lawfully prohibit the use of certain kinds of arms. It strikes me it is a highly important element in this matter.

Mr. SHIELDS. The Supreme Court has ruled that any necessary regulation may be made to protect game. There is a case in the Supreme Court—

Mr. REID. Let me ask you just on this point. It is within the power of the State to prohibit the destruction of game, or to prescribe the seasons during which it may be killed, and to make a discrimination between different kinds of guns which may be used at the time when they may be killed?

Mr. SHIELDS. Yes, sir.

Mr. REID. Now, take the hunting season: would it be constitutional to say that you might hunt with one gun and I be prohibited from hunting with another?

Mr. SHIELDS. It would take two or three hours to read all the decisions of the Supreme Court of the United States on that very point. One of them is this: In 1852 the legislature of Maryland passed a law that only one kind of rake should be allowed in taking oysters from the waters of that State. It provides that this rake should have only a certain number of teeth, and that the rake should be of only a certain size. Some people undertook to use larger rakes in taking oysters. The State arrested them and the offenders were convicted. If you can limit the number of teeth in a rake to be used in taking oysters, you can limit the number of shots that a gun may fire for killing game.

Here is another:

In the supreme court of Minnesota. *State v. Rodman* (58 Minn., 393, 400).

The preservation of such animals as are adapted to consumption as food or to any other useful purpose is a matter of public interest, and it is within the police power of the State, as the representative of the people in their united sovereignty, to make such laws as will best preserve such game.

This decision was quoted with approval by the Supreme Court of the United States in the case of *Geer v. Connecticut* (161 U. S., 519, 533), and so was made a part of the decision of the Supreme Court rendered in that case.

Mr. REID. I would like to ask you if the same principle is not involved in the legislation where the size of the meshes of nets is prescribed?

Mr. SHIELDS. Yes, sir.

Mr. REID. Also in case of those laws prohibiting the destruction of fish with dynamite?

Mr. SHIELDS. Yes, sir; it is the same principle. And I am positive that had the case in which Judge Ross rendered the decision spoken of been carried to the Supreme Court of the United States he would have been reversed, a dozen similar cases having been carried up there with that result.

The CHAIRMAN. Will you specify those cases?

Mr. SHIELDS. Doctor Palmer, of the Biological Society, is preparing a list of those cases. I will get advance proof sheets of that list within a few days and will send copies to the committee.

The CHAIRMAN. Do any of these provisions affect the constitutional right of the people to keep and bear arms?

Mr. SHIELDS. That does not relate to guns used in hunting game. The States have the right to regulate—

The CHAIRMAN. I see that your bill makes the having of the gun *prima facie* evidence of a crime.

Mr. SHIELDS. Here is a letter which I want to read to you, from the Department of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF BIOLOGICAL SURVEY,
Washington, D. C., November 22, 1905.

Mr. G. O. SHIELDS,

Editor Shields Magazine, 1269 Broadway, New York.

MY DEAR MR. SHIELDS: On returning to the city after an absence of several weeks I find your letter of November 11, requesting a list of the States that have laws regulating the gauge of guns that may be used in hunting birds.

Nearly all the States and the provinces of Canada have some legislation of this kind, usually prohibiting the use of swivel guns, or those which can not be fired from the shoulder. The following lists will show how general this legislation is:

(1) States which prohibit swivel guns (usually for hunting water fowl): Delaware, Illinois, Iowa, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, North Dakota, Oregon, Pennsylvania, South Dakota, Tennessee, Washington, West Virginia, Wisconsin, British Columbia, Manitoba, New Brunswick, Northwest Territories, Nova Scotia, Ontario, unorganized Territories, Yukon territory.

(2) States which prohibit use of guns other than those fired from the shoulder: Colorado, Connecticut, Delaware, District of Columbia, Iowa, Louisiana, Maryland, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Washington, Wisconsin, Wyoming.

The CHAIRMAN. They limit the size of the guns.

Mr. SHIELDS. They limit the use of guns to such as can be held up and fired from the shoulder. Anything too heavy for that is prohibited.

Mr. MCKINNEY. As I understand, you do not object to any other kind of a gun than this automatic shotgun. You do not object to the repeating rifle or the double-barreled shotgun or the single-

barreled shotgun; but it is the automatic shotgun to which you object?

Mr. SHIELDS. The automatic is the only one mentioned in this bill; but I gave notice five years ago to all concerned that we must prohibit the use of all repeating rifles and shotguns if we are to have any birds or animals left in this country. I have told these gentlemen in half a dozen hearings we have been in that within a few years we shall have to ask Congress and the States to pass laws prohibiting the use of all repeating shotguns and rifles. We might just as well face this matter. Mr. Hornaday has also stated for years past that the time must come when all this must be done, or else we must submit to having our forests and our fields become as barren of wild animal and bird life as these Capitol grounds to-day. You may occasionally see a robin here, or a bluebird, but if the use of all kinds of guns is not curtailed to the greatest possible extent the time will come when you will never see a wild bird anywhere except on preserved ground. This letter from the Agricultural Department also gives the following:

(3) States which prohibit guns larger than No. 10 gauge: Alaska, Arizona, Michigan, Nevada, New Hampshire, Ohio, Utah.

Now, gentlemen, if you can limit the size of the hole in the barrel of a gun which may be used in hunting birds you can certainly limit the number of cartridges it may carry. [Reading:]

(4) States which prohibit guns larger than No. 8 gauge: Tennessee, Virginia, Ontario, Quebec.

(5) Provinces which prohibit the use of the automatic gun: Manitoba, Northwest Territory.

Mr. HIGGINS. So far as you are concerned personally you are opposed to the use of any sort of a gun for the killing of game?

Mr. SHIELDS. I am willing to assent to that, and personally I am in favor of it.

Mr. HIGGINS. That is what you would do if it was left to you? That would prohibit what is known as the double-barreled shotgun?

Mr. SHIELDS. Yes, sir.

Mr. HIGGINS. Will you not comment, please, on the difference between the quantity of game that can be killed by the ordinary double-barreled shotgun and the quantity that can be killed by the gun this bill discriminates against?

Mr. SHIELDS. I will answer that by a letter from Mr. Arthur Robinson, which reads as follows:

DANN & ROBINSON,
New York, March 21, 1906.

Mr. G. O. SHIELDS,

1269 Broadway, New York City.

DEAR SIR: Regarding the use of the automatic shotgun, would say that I am a member of two southern ducking clubs, where these guns are used very extensively. I have seen a flock of ducks come into a blind where one, two, or even three of these guns were in use, and have seen as many as 11 shots poured into a single flock.

If there had been but three men with double-barreled guns there would have been only six shots.

Mr. HIGGINS. They could have reloaded.

Mr. SHIELDS. Yes; but the birds would go 100 feet while the men were getting the empty shells out, reaching after the new shells, put-

ting them in, closing the gun, and getting it to their shoulder.
(Reading:)

We have considerable poaching on one of these clubs, the territory being so extensive that it is impossible to prevent it. We own 60,000 acres, and these poachers, I am told, nearly all use the automatic guns. They frequently kill six or eight ducks out of one flock, first taking a raking shot on the water, and then getting in the remainder of the magazine before the flock is out of range. In fact, some of them carry two guns, and are able to discharge a part of the second magazine into the same flock.

Fire five shots out of the first gun; drop it; pick up the other, and get in part of that magazine before the birds get 75 yards away, which is about the limit of killing range. This letter continues:

As I told you the other evening, I am not so much against the gun when in the hands of gentlemen and real sportsmen, but, on account of its terrible possibilities for market hunters, I believe that the only safe way is to abolish it entirely, and that the better class should be willing to give up this weapon as being the only means of putting a stop to this willful game slaughter.

Very truly yours,

ARTHUR ROBINSON.

I have here a number of copies of this letter, and I will be glad to give you gentlemen the addresses of these clubs and give you a chance to communicate with the people on the ground, so that you can get at all the facts.

Now, Mr. Marshall will read you a letter from the President of the United States bearing on this subject, and in self-defense—

Mr. COLE. Have you any from Grover Cleveland?

Mr. SHIELDS. No, sir; I have never taken the matter up with him.

Mr. COLE. He is mighty good authority.

Mr. SHIELDS. In January last I called on President Roosevelt in order to get an expression from him as to whether he favored the use of this automatic gun or not. The President received me and I talked with him. I said, "Mr. President, I have come to talk with you about the automatic shotgun and tell you I am fighting it." He said, "I know it, and I am with you heart and soul." I said, "That is good; and now may I quote you to that effect?" He said, "Yes. Sit down, I want to talk with you." We sat down and talked over the matter for half an hour. Here is the interview as I wrote it out. I sent him a typewritten copy of it and wrote him:

Mr. President, here is a copy of the interview that I had with you. If I have not quoted you correctly, please say so. If you do not wish me to use the interview at all, say so. If there are any changes you would like me to make in it please make them.

Mr. HIGGINS. I understand that the President has hunted mountain lions?

Mr. SHIELDS. Yes, sir.

Mr. HIGGINS. Do you suppose that he would trust himself out in the woods without a repeating rifle, with lions all around him?

Mr. SHIELDS. I think he would. He is a thorough sportsman and a dead shot with a rifle.

I have never had any trouble in killing any game on this continent with a single shot. Sometimes I have not done it, but if a man is a careful hunter and a careful shot, he can kill any animal in this country with a single shot. It may be necessary sometimes to give an animal a second shot, or even more, to keep him from running too far,

but there is no dangerous animal on this continent except the grizzly bear, and in hunting these it is well to have a repeating rifle. But that is the only animal on this continent that will ever attack you. I will read you what the President said. I sent him a typewritten copy of this interview, as I said.

Mr. BOVEE. Mr. Chairman, may I make a suggestion? I do not think that the name of the President should be introduced in this discussion, particularly in the way in which it has been introduced. I think it is a question of propriety, of a gentleman placing himself upon record as being in contradiction with the President of the United States in respect to some proposed legislation, and I suggest to the gentleman on the other side that nothing should be said, because it invites a statement in this controversy which I hoped might be obviated.

The CHAIRMAN. There is a rule which prevails, I think, in committees as well as on the floor of both Houses, that criticism should not be indulged in by either House of the other. But I know of no rule in relation to comments upon the Executive within reasonable bounds. If any member of the committee knows of any such rule, I would like to have him mention it.

Mr. MOON. No, sir; there is no such rule as to the President. He is free property. Just hit him as you want to.

The CHAIRMAN. A good deal must be trusted to the sense of propriety which animates all gentlemen in this matter. Mr. Shields is presenting his view in relation to this matter, and I suppose the gentlemen on the other side will want to present their view.

Mr. BOVEE. If we do so, we will do so with extreme reluctance, having expressed our desire to avoid it, as it involves a question of veracity between the President of the United States and the gentleman who is addressing the committee.

Mr. SHIELDS. I am perfectly willing to withdraw what I have said and not to present the letter to you, if the gentlemen on the other side will not say anything about it and will refrain from reading their letter from the President.

The CHAIRMAN. If you gentlemen by mutual agreement desire to strike out all reference to the matter, I suppose that might be done.

Mr. SHIELDS. I simply started to read this in self-defense.

(Informal discussion and conversation between the members of the committee followed.)

Mr. SHIELDS. I believe the question has not been quite settled as to whether I should read my letter from the President and the interview with him. If the committee desires to have it left out, I am quite willing to leave it out.

Mr. LLOYD. I think you have got to a point where you had better read it.

The CHAIRMAN. With that understanding, will the committee agree to let the other side have as much time this morning as has been consumed on behalf of the bill? You have talked fifty minutes, Mr. Shields.

Mr. SHIELDS. I had started to say that I sent the President a typewritten copy of this interview, and I told you what I had written him.

The interview referred to by Mr. Shields, as presented by him, is here printed in the record, as follows:

PRESIDENT ROOSEVELT IS WITH US.

I called on President Roosevelt at the White House, January 17, and had a long and interesting talk with him on the subject of game protection. In the course of our conversation the President expressed himself as heartily in sympathy with our campaign against the automatic shotgun.

I asked him if I might quote him to that effect, and he replied that I might; that he regarded that weapon as a serious menace to the bird life of this country, and that he is heartily in favor of the enactment of laws to prohibit its use in the hunting of birds and wild animals. He said we had lived through the time when the buffalo and the antelope were everywhere on the plains; when great herds of elk could be found in almost any range of mountains west of the Mississippi; when mountain sheep traveled in great bands, even down in the Bad Lands of the upper Missouri River. In those days we did not think it would ever be necessary to restrict the killing of game. We did not realize then that wild animals could be photographed alive in their native haunts.

We have lived to see all these conditions changed. The head hunters, the skin hunters, and the thoughtless sportsmen have swept these herds of noble wild animals off the earth, or have decreased their numbers to such an extent that all we can do now is to preserve and perpetuate the remnant.

We have seen the prairie chicken and the wild turkey exterminated in certain States where they were once abundant. We have seen the quail and the woodcock and the ruffed grouse decimated, until but pitiable remnants of these noble species remain. Hereafter thoughtful sportsmen should bend their utmost energies to the preservation of what is left, and where shooting can be permitted at all it should be with a view to the preservation of species rather than to the making of big bags.

He said he wanted the sportsmen of this country to understand that they have his hearty sympathy in their efforts to save our wild animals from extermination, and that he will do all in his power to aid in this good work.

In his latest book, "Pastimes of an American Hunter," the President says:

"True sportsmen, worthy of the name, men who shoot only in season and in moderation, do no harm whatever to game. The most objectionable of all game destroyers is, of course, the kind of game butcher who simply kills for the sake of the record of slaughter, who leaves deer and ducks and prairie chickens to rot after he has slain them. Such a man is wholly obnoxious; and, indeed, so is any man who shoots for the purpose of establishing a record of the quantity of game killed. To my mind this is one unfortunate feature of what is otherwise the admirably sportsmanlike English spirit in these matters. The custom of shooting great bags of deer, grouse, quails, and pheasants, the keen rivalry in making such bags, and their publication in sportsmen's journals, are symptoms of a spirit which is most unhealthy from every standpoint. It is to be earnestly hoped that every American hunting or fishing club will strive to inculcate among its own members, and in the minds of the general public, that anything like an excessive bag, any destruction for the sake of making a record, is to be severely reprobated."

The President replied in this wise:

(Mr. Shields here read a letter from President Roosevelt, as follows:)

[Personal.]

MY DEAR SHIELDS: I am sorry to say that I must ask you, under no circumstances, to put me in quotation marks: for though you give the sense of what I said, you in no case give the exact language used, so do not try to quote me in the first person or to use quotation marks. You can state that my views are substantially as you have quoted them, but don't actually quote them.

Sincerely yours,

THEODORE ROOSEVELT.

The CHAIRMAN. The President understood the purpose for which you wrote him, and the purpose for which you proposed to use his reply?

MR. SHIELDS. Most emphatically. I asked him when I went in and told him what I came for, what his feeling was in the matter, and he

said, "I am with you in sentiment," and I said, "May I quote you in print?" He said, "Yes," and he sat down and talked with me and gave me this interview for publication.

Mr. CAPRON. Would it not be an entirely different thing, giving you his views for discussion in a magazine and giving you something, if he had known that it would be brought before a legislative committee of Congress for the purpose of influencing legislation? Do you think he would then have given you that expression of his opinion? It is everything in the bearing which it has in this connection, in my judgment.

Mr. SHIELDS. I have no desire to place this matter—

Mr. KLEPPER. Under the rules of the committee could we not, after we hear the reading of these letters, strike out that portion of the hearing that refers to anything that the President may have said?

Mr. COLE. Did he give you any authority in that letter to use it in this connection?

Mr. SHIELDS. Most emphatically. Here is his letter. Pass it among you: you can all look at it [offering letter to the committee]. He says that I have reported the substance of what he said, and that I might go ahead and use it. Here are several copies of the interview as finally used, not in the first person, and not quoted. What the President objects to is that when I sent this out to some of the newspapers some of them edited it liberally, put it in quotation marks, and put it in the first person, which I did not do.

STATEMENT OF MR. C. N. BOVEE.

Mr. BOVEE. Mr. Chairman and gentlemen of the committee, I appear here as a lawyer to speak for the Winchester Repeating Arms Company against the pending bill. The reputation and character of my client, I think, calls for no explanation from me. It has done more to advance the name of American gun inventors and American manufacturers of firearms than any other concern in the world. It is perhaps the most reputable manufacturer of firearms in the world.

I regret that Mr. Shields has seen fit to bring in the name of the President of the United States in this disension. I think this committee could have disposed of this question without involving him in a question of veracity between him and the gentleman who has just spoken, but, in view of what has been stated, I will now read the entire letter of the President of the United States to this gentleman, addressed to him after the interview which he has referred to, and after the publications of the press, and I ask you gentlemen to give attention particularly to what the President has said, in view of what the gentleman has said as to the statement made by the President that he was not to quote him as having made the statements.

THE WHITE HOUSE,
Washington, February 19, 1906.

SIR: It appears that you have purported to give an extended interview with me in quotation marks, putting my expressions in the first person so as to make me responsible for both the thought and the language. This is inexcusable on your part. At the time you called upon me and I talked over informally with you the question of the preservation of game and of wild life generally in its various aspects, I told you explicitly that while you could state that I was in hearty general accord with your efforts, you were not to try to quote my language, and subsequently I wrote you repeating this. As a matter of fact, in

what purports to be these quotations, you in no case give the exact language that I used. By pretending thus to give it, and by what you omit, as well as what you insert which I had not said, you convey on certain points an entirely false impression, and you leave me no alternative but to explicitly repudiate your statement, which I hereby do. Had you been content to say that you gave the general sense of what I said you would have done what you were authorized to do. But when you attempted to give my exact words you not only did what I explicitly told you you should not do, but you used language which I explicitly told you was in no case accurate. Not one single sentence you quote is as I said it. Some of the sentences are sheer inventions. Others are inventions in part, and some of the things I said were omitted. It is unnecessary to characterize such conduct on your part.

Yours, etc.,

THEODORE ROOSEVELT.

Mr. G. O. SHIELDS,
1269 Broadway, Room 601, New York.

Now, gentlemen, I reiterate what I have stated before, that I would not have introduced that letter in this discussion if the gentleman did not invite it, because I do not think that private citizens seeking to advocate legislation in which they are interested have the right to involve the President in a question of veracity in a controversy of this character. But the letter becomes pertinent and material upon this inquiry as an illustration of the sources from which some of these statements have emanated. The gentleman comes here and frankly admits that he would prohibit the use of any shotguns and any rifles whatever, and that great industries like the Remington Arms Company, great industries like the Winchester Repeating Arms Company, employing, as that institution does, over 4,000 employees, and spreading the great reputation of the United States as manufacturers of the best quality of products of this kind, promoters of inventors, should be closed up for five years and their industry destroyed. Why, gentlemen, it is monstrous! The proposition is preposterous!

The gentleman knows of that decision of this judge of the United States circuit court, Judge Ross. He knew of it before he came here, and he knew that the constitutionality of an act of this character would be presented in a decision rendered by a Federal judge in this country in California upon precisely the point involved here, and yet, knowing of this decision and knowing that this inquiry would be made of him as to whether this bill was constitutional, he comes here and indulges in general remarks to the effect that the Supreme Court of the United States would have reversed Judge Ross if that case had been taken up; and yet he can not cite a case, although the chairman of the committee asks him to particularize. Of course he can not cite a case, because there is no such case. Of course States have a right to limit the amount of game which can be killed and also to place a limitation as to the time within which game shall be killed, and within such limitations the Supreme Court of the United States has held such laws constitutional. But here is a bill determined by a competent authority to be unconstitutional after a full and exhaustive hearing, and did the gentleman entertain the views of this matter that he claims to entertain, it would have been a very simple matter to bring here the decision of the Supreme Court of the United States to which he has referred, because the decision of Judge Ross was rendered in 1900. He could have gotten to the Supreme Court of the United States if he was so deeply interested in the principle which he advocates.

The CHAIRMAN. Now, I assume, Mr. Bovee, that you are also speaking in the interest of the industries which you represent?

Mr. BOVEE. Yes, sir.

The CHAIRMAN. And are you in favor of what we all regard as a very laudable object, that of the preservation of game?

Mr. BOVEE. Undoubtedly so, sir. And these industries are all interested in the protection of the game. If the game is to be killed off of the face of this continent, the business of the manufacturers of the Winchester rifle and the Winchester shotgun and all the other arms that they manufacture—and it is the same with the Remington Arms Company—is going to be swept away in that respect. They believe in legitimate limitation as to the number of quail and partridge and deer which may be killed, and that within the season. They are in favor of all such limitations.

Mr. KLEPPER. Do we understand by your statements that Mr. Shields has submitted to this committee what the President said in quotation marks?

Mr. BOVEE. I understand only what the record shows. I have read the letter from the President to Mr. Shields protesting against the publication of the article which has been submitted to the committee.

Mr. KLEPPER. It is not claimed, as I read it, that it is in quotation marks—what the President said.

Mr. REID. It does not purport to be quoted at all.

Mr. KLEPPER. No; it does not purport to be quoted. It says at the end of the interview:

In his latest book, *Pastimes of an American Hunter*, the President says—and then proceeds to give a quotation from a book written by the President. That is in quotation marks, of course.

Mr. BOVEE. I will show you the publication that the President referred to. Here is a publication in the New York Sun of Friday, February 10, 1906. The letter of the President was written after that publication.

Mr. KLEPPER. I did not want the committee to be misled in this matter.

Mr. BOVEE. I do not wish them to be misled, and I thank you for calling it to my attention.

Mr. MCKINNEY. Is it not your understanding that he quoted the President as being favorable to his view?

Mr. LLOYD. The President says that in the letter which he read.

Mr. BOVEE. He does not say that he is favorable, as I understand, to this bill or to any proposition of this character.

Mr. MCKINNEY. He says that he is favorable to the preservation of game.

Mr. BOVEE. Here is the publication that the President had reference to, reported in the New York Sun of February 10, 1906. The letter of the President is dated February 19, 1906, and is as follows:

[From the Sun, Friday, February 16, 1906.]

President to sportsmen—Pleads for preservation of wild animal life—Automatic shotgun condemned as threatening extermination of birds—Case of the elk and buffalo—Killing for sake of record unsportsmanlike.

President Roosevelt's views on the subject of game protection will be touched upon in the next issue of Shields's Magazine. G. O. Shields, who is president of the League of American Sportsmen, called on the President at the White

House on January 17, and the conversation turned upon the automatic shotgun. When he saw what views the President held, Mr. Shields asked permission to quote him. The President's reply, as given by the magazine, was as follows:

"By all means. You may say I regard that weapon as a serious menace to the bird life of this country, and that I am heartily in favor of the enactment of laws to prohibit its use in the hunting of birds and wild animals. Shields, you and I have lived through the time when the buffalo and the antelope were everywhere on the plains; when great herds of elk could be found in almost any range of mountains west of the Mississippi; when mountain sheep traveled in great bands, even down in the Bad Lands of the upper Missouri River. In those days we did not think it would ever be necessary to restrict the killing of game. We did not realize then that wild animals could be photographed alive in their native haunts.

"We have lived to see all these conditions changed. The head hunters, the skin hunters, and the thoughtless sportsmen have swept these herds of noble wild animals off the earth or have decreased their numbers to such an extent that all we can do now is to preserve and perpetuate the remnant.

"We have seen the prairie chicken and the wild turkey exterminated in certain States where they were once abundant. We have seen the quail and the woodcock and the ruffed grouse decimated until but pitiable remnants of these noble species remain. Hereafter thoughtful sportsmen should bend their utmost energies to the preservation of what is left, and where shooting can be permitted at all it should be with a view to the preservation of species rather than to the making of big bags.

"Mr. Shields, I want you and all the sportsmen of this country who are working with you to understand that you and they have my hearty sympathy in your efforts to save our wild animals from extermination, and that I will do all in my power to aid in your work."

In his latest book, *Pastimes of an American Hunter*, the President says:

"True sportsmen, worthy of the name, men who shoot only in season and in moderation, do no harm whatever to game. The most objectionable of all game destroyers is, of course, the kind of game butcher who simply kills for the sake of the record of slaughter, who leaves deer and ducks and prairie chickens to rot after he has slain them. Such a man is wholly obnoxious; and, indeed, so is any man who shoots for the purpose of establishing a record of the quantity of game killed. To my mind this is one unfortunate feature of what is otherwise the admirably sportsmanlike English spirit in these matters. The custom of shooting great bags of deer, grouse, quail, and pheasants, the keen rivalry in making such bags and their publication in sportsmen's journals are symptoms of a spirit which is most unhealthy from every standpoint. It is to be earnestly hoped that every American hunting or fishing club will strive to inculcate among its own members and in the minds of the general public that anything like an excessive bag, any destruction for the sake of making a record, is to be severely reprobated."

Mr. POWERS. Did I not understand Mr. Shields correctly to say that while he did not in his magazine put what the President said in quotation marks, as the language of the President, he sent the interview as prepared by him out to newspapers, and the newspapers changed it and published it in that way, putting that language in quotation marks?

Mr. BOVEE. I understand that to be the fact; but it is a significant fact that in two newspapers in New York City the quotations from the President are in the same form—in the *New York Sun* and the *New York World*.

The CHAIRMAN. After all, while we all of us have a very high regard for the President, and for his opinions on all questions, is this question of the construction of what he said and wrote to Mr. Shields at all vital in this controversy?

Mr. BOVEE. I do not think so; I think it ought to have been left out entirely.

The CHAIRMAN. And ought we not to get down now to the question of the bill?

MR. BOVEE. I think so. The interview with the President is substantially as it appears in the New York Sun. There was but one interview with the President of the United States, and the President repudiates it, and there is the report of that interview to which he undoubtedly has reference [referring to newspaper article].

THE CHAIRMAN. Do you doubt that he is in favor of the preservation of game?

MR. BOVEE. He is; certainly.

THE CHAIRMAN. And I have no doubt that all the members of this committee and the people of the country generally are in sympathy with Mr. Shields's efforts in that direction. The question now is as to the constitutionality of this measure, and if it may be construed to be constitutional, whether it would be desirable to report such a bill.

MR. BOVEE. Yes, sir. Now, let me say that this bill applies to four Territories. The criticism of one of the members of the committee clearly pointed to the fact that in each of these Territories they have a legislative body competent to pass upon a bill of this character. If a bill of this character is constitutional, and can be made a law, there is a legislative body for that purpose in the Territory, and the question naturally arises why is not that the place to go with such a bill, where representatives from the different parts of these territories, having full and particular knowledge of the conditions existing in the different parts of the Territory, coming as they do from all the different parts and ramifications of that Territory, could determine whether such a bill is practical and necessary?

MR. POWERS. In all the acts relating to Alaska we find that Alaska is designated not as a Territory, but as "the district of Alaska." It is not in any of the laws or acts passed concerning it referred to as a Territory.

MR. BOVEE. Yes, sir. I do not think this bill had in contemplation Alaska. This bill was presented to the legislature in Oklahoma, and it has been defeated. It is a fact that no State in the Union has passed this bill. It has been attempted to be passed in the State of Massachusetts, and has been defeated; in the State of Connecticut twice, and defeated; in the State of New York once, and never enacted into law. It was submitted last year, and it was submitted on the same arguments that have been made here to-day, and was never reported out of the committee. It was defeated in the State of New Jersey twice. In the State of Pennsylvania it was presented three times, and never enacted; in the State of Michigan once, and defeated; in the State of Wisconsin once, and defeated; in the State of Minnesota twice, and defeated; in North and South Dakota, and defeated, and perhaps North and South Dakota, on the question of the preservation of the sage hen or the partridge, might be said to be deeply interested in an enactment of this character. In California it was presented and defeated, in the State of Kansas it was defeated, in Missouri it was defeated, in the State of Arkansas it was defeated, and in the State of Kentucky it was defeated.

THE CHAIRMAN. It was defeated in committee—

MR. BOVEE. It was never enacted into a law, after several presentations in many of these States, on the same arguments that have been made here to-day. And, gentlemen, we ought not to be misled by the enthusiastic expressions on the general subject of the preservation of

game emanating from such societies as the Audubon Society, of New York City, and as the Zoological Society or the Museum of Natural History, of New York. Of course, you can go abroad and get petitions that would reach from here to the Pacific Ocean on the general subject of the preservation of game, and there are thousands and thousands of people who would not have a bird killed or an animal killed; they would not have a moose or a deer killed, or any form of game killed, at any time, or any birds whatever. There are hundreds and thousands of people who entertain views of that character, and you could get all sorts of letters.

But here is the practical question: It concedes the right of a man to use a repeating rifle which will shoot 13 times without taking the gun from the shoulder. It concedes the right to use a revolver which will shoot any number of times without lowering the hand, just by pressing the trigger. It concedes the right to use any self-loading gun, or any gun of any sort, except this form of gun which has been invented by this gentleman over there, Mr. Browning, and which is in the course of manufacture by the Remington company. If you are going to prohibit an advanced firearm like this, why not prohibit the Remington rifle and the Winchester repeating rifle, which shoots 9 times, and why give a gentleman who is exterminating moose and deer and caribou a preference over the man who is using a shotgun? And in respect to the shotgun, the double-barreled gun is not prohibited. They do not infringe on your right to use a double-barreled shotgun. Say that a bunch of quail starts up and a man shoots one there and one there. That is two shots. Where are the quail by that time? Are they sitting there on a branch waiting for him to shoot again?

Mr. CAPRON. Generally, when some of us shoot, they are. [Laughter.]

Mr. BOVEE. I can give you an illustration from an interesting letter written by a local sportsman out in the West: Three of them went out to shoot jack rabbits. Two of them had the noxious and vicious automatic guns. One of them was on one side and one on the other of this sportsman, and he had his old Parker gun, shooting 2 shots, and he describes in the most interesting way how these gentlemen showed how they had nothing to do but throw up the gun and pull the trigger. Well, he got the jack rabbits with his old Parker gun, and these gentlemen had the pleasure of shooting into the air. And it goes without saying that the sight can not be held on a bird, and that sight must be taken at each bird separately, almost as though the gun was removed from the shoulder, because the recoil will throw it off.

Mr. REID. What is the advantage of the gun?

Mr. BOVEE. I do not know what the advantage is in the gun. It is supposed that it is an advance in the line of the manufacture of firearms.

Mr. REID. It ought to have some useful purpose if it is patented.

Mr. BOVEE. Yes, sir; and I presume that it has. It carries five shots.

Mr. POWERS. Have you ever examined into the laws of the State of Maine in this regard?

Mr. BOVEE. No, sir.

Mr. POWERS. We have found that the limitation upon the time within which game may be killed and the limitation upon the amount of game that can be killed, rather than any legislation as to the weapon, has been able in our State to increase the amount of game, and there is much more there than there was ten years ago.

Mr. BOVEE. Certainly; that is constitutional and is the practical manner of reaching it. For instance, you can limit a man to 20 quail a day. You can only kill two deer in the State of Maine, and that within a very short space of time each year. And it is a significant fact that in Maine, which has more deer than any other part of the country, they never have attempted to pass this bill, because they knew that that State was full of sportsmen, and it would be killed the minute that it was presented.

Mr. POWERS. Maine is the finest game preserve in the world.

Mr. BOVEE. Yes, sir; it is the finest game preserve in the world. They kill hundreds of moose and caribou and deer every year; and yet in that State of sportsmen, where shotguns and rifles are used, these gentlemen have not seen fit to ask the legislature to pass this bill.

Now, as to the constitutionality of this bill. Let us take the case of *Mather v. Marshall* (reported in 102 Fed. Rep., 323) in the United States circuit court for the northern district of California. Judge Ross, one of the best judges on the circuit bench, decided that case.

The petitioner was convicted in the justice's court of Marin County, Cal., of a violation of the provisions of an ordinance enacted by the board of supervisors of that county, declaring in its seventh section that—

Every person who, in the county of Marin, shall use any kind of a repeating shotgun or any kind of a magazine shotgun for the purpose of killing or destroying any kind of wild duck, geese, quail, partridge, doves, or any other birds shall be guilty of a misdemeanor—

and by its eighth section prescribing that—

Any person violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than ten days or more than thirty days, or pay a fine of not less than twenty dollars or more than two hundred dollars, or by both such fine and imprisonment. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine is satisfied, specifying the extent of imprisonment, which must not exceed one day for every dollar of the fine. (102 Fed. Rep., 323.)

So that you will see that the precise question arose in that case in respect to the ordinance. That was the only question before the court on which the man was brought up on habeas corpus. What did Judge Ross say? I quote from his language:

But surely, in a case like the one at bar, where there is no question of the public safety, public health, or public morals, and where the prohibited act is in no respect malum in se, the absolute prohibition of the use of one's own property on his own land can not be held to be a reasonable exercise of the police power, when regulations will plainly attain the end desired by the legislation in question. In the present instance, what was the end sought? Manifestly only the prevention of the taking or killing by one person of more than 25 quail, partridge, or grouse in any one day; for section 3 of the ordinance provides: "Every person who, in the county of Marin, shall take, kill, or destroy more than 25 quail, partridge, or grouse in one day, and every person who, in the county of Marin, shall have in his possession in any one day more

AUTOMATIC SHOTGUN.

than 25 quail, partridge, or grouse, shall be guilty of a misdemeanor." That end is just as effectively accomplished without the obnoxious section as with it. It is wholly immaterial to that object whether the sportsman or hunter use a repeating or magazine gun or a double or single barreled gun. When the limit is reached he has to stop shooting or incur the penalty prescribed. And the opportunity of detection is just as great in the one case as in the other. No valid reason is therefore perceived, and none has been suggested by counsel, why the owner of a repeating or magazine shotgun should be prohibited from using it, and the owner of the equally if not more effective double-barreled automatic-ejector shotgun be free to use it.

He means the Parker gun, and guns of that character.

The CHAIRMAN. In that case the defendant killed the game on his own land? I have not read the decision clear through. Does it make any difference?

Mr. BOVEE. I do not think there is any distinction on that point. It was in respect to the legislation itself.

The CHAIRMAN. The court makes no distinction?

Mr. BOVEE. No, sir. You will see that it has been declared unconstitutional. Further he says:

The equal protection of the laws to which every person is, by the provision of the Constitution of the United States above quoted, declared entitled, would indeed be a vain thing if such discriminatory legislation was sustained by the courts. If section 7 of the ordinance in question is valid, no reason is perceived why the process of elimination may not be extended by next prohibiting the use of the double-barreled automatic-ejector shotgun, next all but muzzle-loading guns, and so on until the popgun only is permitted to be used upon wild duck, geese, quail, partridge, grouse, doves, or other birds in Marin County. Laws enacted in the exercise of the police power, whether by a municipal corporation acting in pursuance of the laws of a State, or by a State itself, must be reasonable and are always subject to the provisions of both the Federal and State constitutions, and they are always subject to judicial scrutiny. (*Yick Wo v. Hopkins*, 118 U. S. 372; *Forster v. Scott*, 156 N. Y., 577, 584; *Toledo, Wabash & W. R. R. Co. v. City of Jacksonville*, 67 Ill. 37; *Ex parte Whittwell*, 98 Cal., 73.)

Further on he says:

Enough has been said, I think, to show that the section of the ordinance under which the petitioner was convicted and is imprisoned is unconstitutional and void.

Mr. REID. If I note it clearly the ordinance prohibited the killing of more than a certain number of birds?

Mr. BOVEE. No, sir; the law prohibited the use of the automatic shotgun. The petitioner was convicted in the justice's court of Marin County, Cal., of the violation of the provisions of an ordinance enacted by the board of supervisors of that county, declaring in its seventh section that "Every person, who, in the county of Marin, shall use any kind of a repeating shotgun, or any kind of a magazine shotgun," and so forth.

Mr. REID. They put it on the broad ground?

Mr. BOVEE. Yes, sir; that legislation of that character was contrary to the Constitution of the United States.

Mr. KLEPPER. Will you allow me to ask you a question?

Mr. BOVEE. Certainly, sir.

Mr. KLEPPER. Suppose there was no limitation there as to the number of birds that one could kill in a day, do you think the court would then have decided as he did?

Mr. BOVEE. Undoubtedly so. That was simply an illustration of the practical way in which game birds could be preserved, just by

imposing a limitation as to the number of quail to be killed in a day, and also that they must be killed within a certain season.

Mr. HIGGINS. There is no question, is there, about the constitutionality of the law that prevents the killing of more than a certain number of quail in a day?

Mr. BOVEE. No, sir; the Supreme Court of the United States has passed on that. There can not be any doubt about it. Now, in the headnotes of this case, which is, of course, a concise digest, it says:

A county ordinance making it a misdemeanor to use any kind of a repeating shotgun or any kind of a magazine shotgun for the purpose of killing or destroying any kind of wild duck, geese, quail, partridge, doves, or any other birds, is in conflict with the fourteenth amendment of the Constitution of the United States.

Where the manifest purpose of a county ordinance is to prevent the taking or killing by one person of more than 25 quail, partridge, or grouse in any one day, it is not a reasonable exercise of its police power to prohibit its killing, within such limit, by the use of a repeating shotgun or magazine gun.

The CHAIRMAN. Mr. Bovee, Mr. Shields in the course of his remarks called attention to certain laws of certain States and to certain decisions regulating the bore and the weight of the gun. Now, if you may regulate the bore and weight of a gun why may you not regulate the number of shots that may be fired by a gun? It struck me that that was an important point suggested by Mr. Shields.

Mr. BOVEE. I do not know that the legislation to which he has called attention has ever passed the test of judicial scrutiny.

The CHAIRMAN. I understood Mr. Shields to cite some decision.

Mr. SHIELDS. On various points, but not on that. But as a matter of fact those cases have come up. In those States regulating the bore of the gun and regulating the use of swivel guns those cases have gone into the courts.

The CHAIRMAN. Can either of you gentlemen cite a decision on those things?

Mr. BOVEE. I have stated the facts in the case of Marshall in the United States circuit court, with respect to precisely this matter. I know of no case where the constitutional question has been raised in an act limiting the bore of a gun. I do not know that there is any such legislation. It may be so, but I do not know of any case where it has passed judicial scrutiny where the constitutional question has been raised.

Mr. POWERS. In your practice before the United States circuit courts—I have no doubt that it has been large—have you not found that the different circuits in different States often decided exactly the same questions entirely different?

Mr. BOVEE. I can not recall the number of circuit judges that there are. I can perhaps answer your question best by a personal reminiscence. Some years ago I had an important litigation against a great Pittsburg steel concern, Park Brothers & Co. I removed the case into the Federal court for defendant. Plaintiffs moved to remand. They first went into the State court and moved to vacate the order of removal, and in the course of my investigation of that question I found that many circuit courts of the United States were diametrically opposed to each other, as has been suggested, and that the weight of authority was in favor of removal by reason of the fact that that great justice of the Supreme Court of the United States,

Judge Miller, of Iowa, had written a very convincing and strong opinion in favor of my contention. The question came up on a motion in the State court to vacate the order of removal. I succeeded there in defeating the application and holding the case in the circuit court. It was appealed to the general term of the Supreme Court. One of the best judges that we have upon the bench wrote a 20-page opinion, holding, with some of the cases in the United States circuit court, that the case could not be removed.

The chief judge then presiding in the court wrote seven lines on the bottom of that opinion, saying:

I do not concur. I think that the weight of authority is in favor of the removal of this case to the United States court.

His associates concurred with him on that subject. Undoubtedly it is so, and if Mr. Shields in the wealth of his research has not been able to find an authority to the contrary of this which is here, the matter of Marshall, and of course with his great interest to sustain a measure of this character he would have found it and brought it here to you, if there had been any, the conclusion is that there is no such authority. And I say that he can not put his finger on the title of a case in the Supreme Court of the United States, although he has had this Marshall case before him.

Mr. POWERS. Is not this a case that would not be very likely——

Mr. BOVEE. He has not been able to get a legislature to pass his bill.

Mr. POWERS. I confess that I doubt the correctness of that decision. I am with you on other things, but I am not with you on that.

Mr. BOVEE. Gentlemen may differ in regard to their construction of the Constitution of the United States, of course, but there we have a judgment.

Mr. CAPRON. I presume that is the law now?

Mr. BOVEE. Yes, sir; and you gentlemen are lawyers, and I presume lawyers should all bow humbly to the decision of the circuit court.

Mr. CAPRON. If it suits them.

Mr. BOVEE. If it suits them; yes, sir.

The CHAIRMAN. That is not the final judgment, you know.

Mr. BOVEE. If you are going to pass this bill, then, to be perfectly consistent, and if you are going to be thoroughly in harmony with Mr. Shields on this matter, you ought to go further and stop the pernicious double-barreled shotgun. You ought to legislate out of existence the repeating shotgun, and make us, when we go into the woods, limit ourselves to a single-shot rifle. Perhaps some of us are not as good sportsmen and shots as Mr. Shields, and perhaps if we tackle a grizzly bear, if we have not a repeater we may suffer the consequences; but we may console ourselves with the thought that it is in the line of the protection of the game of the country. And let me call your attention to the fact that the game of the country is in the deplorable condition in which we find it to-day, as depicted by Mr. Shields, not because these guns have been in operation: it has not been because of this repeating self-loading shotgun that it is as we find it. That has not done it. This is a new invention. It has been on the market only

a year. But it is the double-barreled shotgun that has done it and the repeating rifle. This gun has not done it; and if you are going to prohibit the use of this gun you want to go a step further and go to the logical end.

Now, I want to repeat what I have stated before, that these manufacturers are in favor of the protection of game: it is their very life. It is to their interest, within constitutional and practical limitations. Of course I do not deny your authority and your power, but I say that your local legislative bodies in these Territories are better able to judge of the existing conditions in their Territories as to whether legislation of this character is demanded. If you are going to encroach upon their legislative prerogative and say that this thing shall not be done in these Territories, regardless of whether they want this legislation or not, why, gentlemen, how much further can you go? How much further ought you to go? If there were no legislative body with power to enact laws of this character, then the situation would be different. But they have such a body, constituted for that precise purpose; and why should these people come here and trouble Congress with such a matter, that almost every State in the Union has repudiated.

I have only one further suggestion to make, and that is this: That it is not fair to that gentleman who sits over there, who has devoted his life as an inventor to the improvement of American mechanical contrivances, and to whom the great Government of the United States has issued a patent upon this gun. I want to say that the Winchester Repeating Arms Company does not manufacture this gun which is aimed at here; it is manufactured by the Remington Company on the patents of that gentleman, and the Government has issued a patent to him, and you are practically going to deny to him the benefit of his life work and his study in improving American contrivances in advancing the cause of the American manufacturer: and I say it is not fair. It is not fair when there is a better and more practical means of protecting the game of the country by means of limitation of bag and season within the limits of the Constitution. In every State of the Union they have protection of that character, and I think the matter should be left to those States.

I think that is substantially what I have been requested to present.

STATEMENT OF MR. TOM MARSHALL.

MR. MARSHALL. Mr. Chairman and gentlemen of the committee, I am an employee of the Remington Arms Company, the people that manufacture this gun, and I am known as the expert shot that they send out over the country to demonstrate the efficiency of the gun, or the working qualities. As regards Mr. Shields, we are special and particular friends, and we have traveled, I suppose, in a dozen different States and Territories together this season, contesting this bill, and I meet Mr. Shields here to-day exactly on the same grounds.

This is a business proposition. Mr. Shields is in this as a business proposition, which I will explain to you in a moment. I am in this as a business proposition, as an employee of the Remington Arms Company, which manufactures this gun.

We oppose this bill for the reason that it is unjust and unnecessary as a matter of game protection, because if they limit the bag, and

limit the number in the possession, shorten the season (as almost every State in the Union has done), and control the sale, they have the killing of game controlled to as great an extent as it can possibly be done at this particular time. This, gentlemen, is along the line of game protection.

My friend Shields comes here and tells you that he has expended \$15,000 of his own money in the protection of game. Gentlemen, I will tell you that that is absolutely true; but at the same time he has expended this \$15,000 he has gathered in from the dear people of this country by contributions \$100,000. I do not know whether Mr. Shields knows how much it has been himself. He tells you about the organization of the League of American Sportsmen, of 20,000 members. I am not a member of that association. That is the only gold brick that I have not purchased. [Laughter.] But a member of that association before the legislative committee in Albany, N. Y., said: "Gentlemen, I am a member of the League of American Sportsmen, and it is organized just as you formerly organized the 'Buffaloes' of this country." He says—Mr. Shields is the great protective means of this organization—"You are asked to join the League of American Sportsmen, and the fee is a dollar. You write on to Mr. Shields, send your dollar, and he says, 'I am the president of this association, and you are a member, and I have got your dollar,' and that is all there is of it."

Mr. Shields says that it is from no financial interest that he comes here and represents this bill. I cite you to the list of donators as named in his March magazine, and that shows how in the last month he has gathered together \$400 from all quarters of the world, by representing the automatic gun as the great destroyer of game birds and animals. I am satisfied that he could get a subscription from each and every one of you gentlemen if you could hear his pathetic word picture, and he has amassed in the last month about \$400 (carpenters' wages—better than the union scale); and why would he not come here before you at a small expenditure to advocate this bill when it is to his personal, private interest, and a matter of business remuneration to him, every donation he secures?

He tells you about Mr. Hornaday, of the Zoological Gardens of New York. Gentlemen, I am acquainted with this gentleman, who appeared before a legislative committee in New Jersey the other day, and when I said, "Mr. Hornaday, did you ever see an automatic gun?" he said "No; I never did." I said, "Did you ever see one shot?" to which, of course, he said "No." But, nevertheless, Mr. Hornaday went before that committee and strongly opposed it, when he had never seen an automatic gun. And now Mr. Shields quotes to you from Mr. Hornaday here.

I want to say to you that we use the word "automatic" simply as a trade-mark, simply to designate it as different from the Winchester pump gun, and the Remington guns, as a gun which we have just put upon the market. I want to say to you that this gun is absolutely under the control of the operator at all times. It is impossible to discharge a shot from this gun without pulling the trigger.

Another thing that Mr. Shields cites to you is the punt and swivel gun, which is a gun loaded with an excessive amount of powder and a very heavy load of shot, and you have to rest it upon something, as you can not hold it up; you turn loose into a flock of birds with that; you can

not tell what it is going to do; you may kill only one of them, and you may kill all of them. But with the automatic gun we make but the one size of bore. He speaks of the 10-gauge gun and the 8-gauge gun. We make nothing but the 12-gauge, one of the smallest size used by sportsmen. It can not be loaded with anything but a certain amount of ammunition. It can not be utilized in killing song and insectivorous birds, for the reason that the load is such that it would blow that little bird clear out of existence.

He cites you to the Boone and Crockett Club and other clubs of New York, composed of men who are willing and able to own their own preserves and do own them. I was talking with a man not long ago, walking down the street with him after a meeting, and I said to him, "Why do you oppose this automatic gun?" He said, "Oh, you American manufacturers don't make anything that is fit to be sold or used, anyway." He said, "Take my English gun, and just look how fine that is: all rubbed down by hand." "But," I said, "our American citizens, most of them, can not stand it to purchase that kind of a gun." He wanted an English gun, and that was just the kind of a man that I would approach to unload a \$700 gun on, and they are just the people that Mr. Shields cites to you to-day. They were the people that he landed for a gold brick, perhaps.

Now, in regard to the communications from the sportsmen's associations of this country, they have the National Game Wardens' convention, where each year the game wardens from each State in the United States meet. They convened in St. Paul on the 24th and 25th of January this year. There were 21 States and Territories represented by the game wardens and commissioners of those States and Territories. Mr. Shields and I were present together. Mr. Shields had with him a resolution which would indorse a bill of the character of this which is here to-day. That resolution never got any consideration whatever from that association. They said that the way to protect game was to limit the bag and protect game except in the prescribed seasons, and if you wanted to propagate game put a residence tax on sportsmen which will place a sufficient amount of money in the treasury, which will enable them to go on and reproduce in those States where the game has been depleted. That was in this organization that I speak of.

I have a copy of a resolution introduced in the New Jersey State Sportsmen's Association, the original copy, which they gave to me, and I have it here, and that opposes this legislation and says that it is wrong and in the wrong direction, and that it is not the way to protect game, and is an injustice to the sportsmen of this country, because if you limit the bag it makes no difference to that poor suffering bird whether he is killed with an automatic gun or a muzzle-loader. It makes no difference to the Territories and States. If we limit the bag to 20 birds, it makes no difference whether a man goes out and kills them with a bow and arrow or with an automatic gun.

This name "automatic gun" is simply a trade-mark. Mr. Browning is here to-day, and if you desire to see the action of this gun we will be very glad to demonstrate it to you. Mr. Browning is also the inventor of the Colt automatic riot gun, which fires 500 shots a minute. That is an automatic gun, because all you have to do is to hold the trigger back, and that gun continues to shoot as long as

you hold the trigger. But this automatic shotgun is absolutely under the control of the operator at all times.

I have here a short communication addressed to me from the game warden of the State of Ohio, which I would like to read to show you that this gun is not in the hands of the pot hunters or the so-called game hogs. This reads:

STATE OF OHIO FISH AND GAME COMMISSION.

Columbus, Ohio, February 16, 1906.

Mr. TOM A. MARSHALL,

313 Broadway, New York.

MY DEAR MR. MARSHALL: I am in receipt of yours of the 14th instant, inquiring as to our observation and experience with an automatic and repeating shotgun. Out of many hundreds of guns that our wardens have seized from poachers in the State of Ohio, we never have so far secured an automatic shotgun. By careful reference to records, we find that the wardens have only secured from four to five repeating shotguns out of every hundred seized. This proves to me conclusively that neither of these guns are in the hands of the poacher and game hog as a rule. It is a fact that if all the hunters in this State were compelled to use the repeating or automatic shotgun instead of the guns of their choice, they would kill less game than is killed to-day by using such guns as they are familiar with.

In regard to the protection of game, I have expressed myself in an article addressed to the National Game Wardens' Association, at St. Paul, that no amount of prohibitory or gun legislation will ever result in again restocking this State with game birds; that the physical conditions of our country are such that it is impossible to expect such legislation to remedy it. If there is any legislation that will remedy present conditions, limit the bag per diem, number found in possession, prohibit sale and cold storage, and provide a suitable home that will afford protection from their natural enemies and inclemency of the weather.

Yours, very truly,

J. C. PORTERFIELD, Chief Warden.

The CHAIRMAN. What is Mr. Porterfield's position?

Mr. MARSHALL. He is the State game warden. When a man goes before the national game wardens of the United States, who discuss and rehash and weigh these matters up, and they absolutely refuse to take any action in regard to this matter, claiming and stating that it is the wrong way to protect game, why should he come to you people and ask you to drop into the Territories and enact this legislation, when he was the father of 35 bills that were introduced last year, some two or three in a State, and not one of those bills became a law! The States turned it down, and now he comes here and asks you to "rake his chestnuts out of the fire" by slipping the Territories in—this to make capital for him, to obtain contributions. We say that this is wrong, and we ask you simply to leave the matter as it stands.

STATEMENT OF MR. MATHEW S. BROWNING.

The CHAIRMAN. Mr. Browning, where is your residence?

Mr. BROWNING. Ogden, Utah.

The CHAIRMAN. And what is your occupation?

Mr. BROWNING. I am in the patent business, the inventing of firearms. This is the automatic shotgun. The gun is operated by the recoil, and consequently I can not demonstrate it to you, as Mr. Marshall has said, for it requires that a cartridge be fired in order to throw the action back. I can show you how it does throw it back. When the gun is fired this is thrown back in this manner [indicating],

which compresses a spring so that if it had a cartridge in the magazine it would take that cartridge from the magazine and put it in the barrel [indicating].

There are 4 cartridges in the magazine and 1 in the barrel, which makes it a 5-shot repeater. The gun can be fired as rapidly as a person can pull and release the trigger. The action is the same as it is in four other magazine shotguns that are now on the market. You hold the trigger, with those guns, while with the left hand you operate the slide; and it fires as quickly as it is closed. This slide can be operated on the repeater about as fast as the trigger of the automatic gun can be pulled, so the repeater can be fired about as fast as the automatic. But if you fire this gun as rapidly as you can, or if you fire the repeating gun as rapidly as you can, or the double gun, for that matter, it will be at the expense of accuracy, and you will hit nothing if you shoot any of them as fast as you can.

Now, as to the killing of song and insectivorous birds with this gun, there never was a gun made that was less adapted for that purpose. It requires a good ordinary load—a good game load—to throw this action back [indicating]. If it is thrown back like that [indicating] it does not operate. It must be thrown completely back in order to operate. The cartridge that is used almost entirely in shooting these small birds will not operate this mechanism at all. The automatic principle—the automatic loading—limits the gun to a narrow margin in cartridges. In automatic rifles and pistols a difference of one grain will either make the arm fail to operate or make the parts hit so hard that they are not long lived. The maximum load for this gun is $3\frac{1}{4}$ drams and the minimum load is 3 drams. There are many who say to me: "You can not kill ducks with $3\frac{1}{4}$ drams." On the other hand, none of them would say that 3 drams was a bird load. This gun must be for the intelligent sportsman, the progressive sportsman, who is willing to use an ordinary load, and knows how to take care of the arm. There is a friction piece here that must be kept in about a certain condition in order to have the arm work properly.

The CHAIRMAN. What is the weight of that gun?

Mr. BROWNING. About $7\frac{1}{2}$ pounds.

Mr. BOVEE. What is the price of it?

Mr. BROWNING. Not less than \$30. The cheapest gun is \$30. This gun is over \$100. That reminds me that in discussing this matter with Mr. Hornaday I did inform him that there were over 350,000 guns costing from \$3 to \$5 placed on this market yearly. There are about 10,000 of these automatic guns placed on the market in a year. Of all the guns that are placed on this market, four-fifths of them are sold for less than \$12. It is not the gun that the sportsman buys that is destroying the game. It is the cheap gun that goes into the hands of the boy, and of the negro, and of the foreign laborer. The Latin races are especially destructive on the small birds, as they are known as a delicacy with them in their own country.

The CHAIRMAN. Gentlemen of the committee, do you desire to hear any further testimony in connection with this bill? Are there any other gentlemen who desire to be heard in relation to this bill?

Mr. KALANIANAOLE. I would like to ask that Mr. McClellan be heard briefly, as the Territory of Hawaii would be included in the operation of this bill.

STATEMENT OF MR. G. B. McCLELLAN, OF HAWAII.

Mr. McCLELLAN. I simply want to say that a protest has been received from citizens in the Territory of Hawaii against the passage of this bill. Our people take the ground that we are entirely able to legislate on these matters ourselves in our local legislature, and there is no apparent reason why any such restriction should be placed upon the Territory of Hawaii; and if it becomes apparent or necessary that there should be such restriction, the legislature is amply able, through the authority that you have already given it, to pass such legislation as is necessary. I simply, on behalf of the citizens who have spoken in this matter, desire to protest against the passage of any such measure, taking away our right of local legislation, which you have already given us.

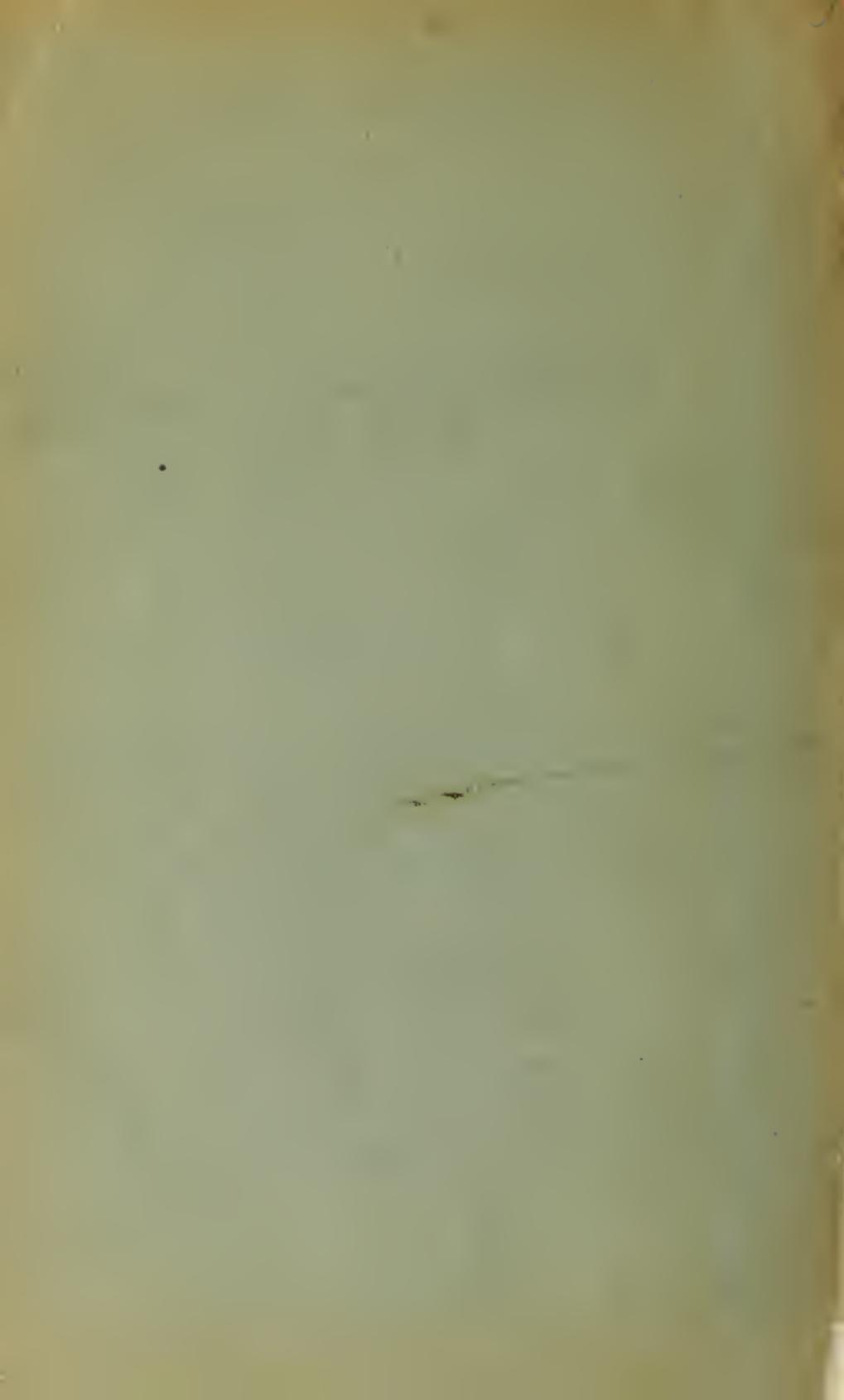
Mr. BOVEE. May I be permitted to enlighten the committee in respect to one matter? I think that the committee ought to know that Mr. Marshall is a shooter of some reputation and experience. He was captain of the American international shotgun team that went abroad and cleaned out all the foreign teams. I do not remember the year, but you will see the medal which hangs from his watch chain. He, as a professional shooter, used a shotgun. I do not know what kind, but a double-barreled shotgun; and as a sportsman and captain of the great American international team he comes before this committee and says what he does.

ADDITIONAL STATEMENT OF MR. G. O. SHIELDS.

Mr. SHIELDS. I only want two or three minutes, Mr. Chairman, to answer some new points that have been brought up. I want to say that if the sale of the automatic and pump guns could be limited to decent sportsmen we would make no objection to them. We want to keep them out of the hands of market hunters. They are the men who will have these guns as soon as they can get them. They are now almost all using repeating shotguns. We are doing away with the market hunters as fast as we can, and have been struggling with that problem for the last ten years.

Mr. BROWNING. If you did, this objection would not be pertinent.

Mr. SHIELDS. On the other hand, there is no objection to the use of these guns at the trap. We do not undertake to ask you to stop the manufacture and sale of them at all. It is only the use of them in hunting birds that we seek to prevent. If the makers of this and the pump guns shall decide by and by, as they have already considered the necessity of deciding, to cut down the magazine to hold only one cartridge, so as to put the gun on a level with the double-barreled shotgun, then all shooters will be on a fair footing. We claim that two shots is enough for any man to have in his gun at any one time.





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